IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9668 of 2002
with
CIVIL APPLICATION NO. 7249 OF 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT GAS COMPANY LTD

Versus

JAIKRISHNA PRINTS

Appearance:

1. Special Civil Application No. 9668 of 2002

MR SUDHIR NANAVATI, Ld. Senior Counsel
for NANAVATI & NANAVATI for Petitioner No. 1
MR S.N.SOARKAR Ld. Senior Counsel with MR NV ANJARIA
for Respondent No. 1
MR IJ DESAI for Respondent No. 2
MR SS PANESAR for Respondent No. 3
MR ASPI M KAPADIA for Respondent No. 4

CORAM : MR.JUSTICE A.M.KAPADIA

Date of Order: 21/10/2002

ORAL JUDGEMENT

Rule.

2. Mr. N.V.Anjaria, learned advocate appears and waives service of notice of rule on behalf of respondent no.1, Mr. I.J.Desai, learned advocate appears and waives service of notice of rule on behalf of respondent no.2, Mr. S.S.Panesar, learned advocate appears and waives service of notice of rule on behalf of respondent no.3 and Mr. Aspi M. Kapadia, learned advocate appears and waives service of notice of rule on behalf of respondent no.4.

3. By filing this petition under Article 226 of the Constitution of India, the petitioner seeks to challenge the order dated September 23, 2002 recorded below Exh.1-A (application under Order 1 Rule 8 of the Civil Procedure Code, ('Code' for short) in Civil Application No.77 of 2002 by the learned Joint District Judge, Surat, by which the respondent nos. 1 and 2 have been granted permission to file the application in representative capacity under Order 1 Rule 8 of the Code.

4. Today, when this matter is called out, Mr. S.I.Nanavaty, learned Senior Counsel, Mr.S.N.Soparkar, learned Senior Counsel for respondent no.1, Mr. Desai, learned advocate for respondent no.2, Mr.Panesar, learned advocate for respondent no.3 and Mr. Aspi M. Kapadia, learned advocate for respondent no.4 are present.

5. Mr. S.I.Nanavaty, learned Senior Counsel for the petitioner and Mr. S.N.Soparkar, learned Senior Counsel for respondent no.1 and Mr. Desai, leaned advocate for respondent no.2 jointly submitted that the petitioner and respondent nos. 1 and 2 have come to amicable settlement of dispute which is impugned in the present petition, and they have arrived at consent terms which bears their signatures and they therefore urged to pass the order according to consent terms, and petition may be disposed of accordingly.

6. Mr. Panesar, learned advocate for respondent no.3 and Mr. Kapadia, learned advocate for respondent no.4 have stated that they have been wrongly joined in this petition and, therefore, even while recording consent terms they may be awarded costs.

7. Having heard learned counsel appearing for the

parties and on having perused the averments made in the memo of petition and grounds set out therein and more particularly, the consent terms which is duly signed by the learned Counsel for the petitioner as well as the respondent nos. 1 and 2, I am of the opinion that this petition deserves to be allowed by quashing and setting aside the impugned order dated September 23, 2002 passed by the learned Joint District Judge, Surat, by directing the parties to act as per the consent terms which is a part of the record of this case.

8. For the foregoing reasons, petition succeeds. The impugned order dated September 23, 2002 recorded below Exh.1-A in Civil Application No.77 of 2002 by the learned Joint District Judge, Surat, granting the permission to file an application in representative capacity under Order 1 Rule 8 of the Code is quashed and set aside. Parties are directed to act as per the consent terms and it is expected that all the parties shall fully cooperate in expeditious disposal of the Civil Application No.77 of 2002 as well as the other applications which are to be filed pursuant to this consent terms and the learned Joint District Judge, Surat is hereby directed to give top priority to this Civil Application No.77 of 2002 and other applications which are to be filed pursuant to this consent terms and decide the same at the earliest.

9. The application with the consent terms shall be retained on the record of the case, and shall be treated as a part of the order.

10. Rule is made absolute to the aforesaid extent with no order as to costs. Direct service is permitted.

11. Registry is directed to send the writ of this order along with the consent terms, which is a part of this order to the learned Joint District Judge, Surat forthwith for necessary compliance as directed by this Court, at his end.

CIVIL APPLICATION NO. 7249 OF 2002.

In view of the order passed in main petition i.e. Special Civil Application No.9668 of 2002, no order in this Civil Application. Hence, this Civil Application is disposed of accordingly.

(A.M.Kapadia,J.)
(vipul)